IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1408 of 1999

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 of any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KADAMWALA TEXTILE MILLS PVT. LTD. - Petitioner(s)

Versus

RAMANLAL GANESHBHAI MAKWANA - Respondent(s)

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Appearance :

MR KM PATEL for Petitioner No(s).: 1.
RULE SERVED for Respondent No(s).: 1.

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CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 15/06/2005

ORAL JUDGMENT

1. The petitioner has challenged the order dated 18/12/1998 passed by the Labour Court, Ahmedabad in Reference (LCA) No.85 of 1986, whereby the said Reference was

partly allowed.

2.0 The petitioner Company is engaged in textile processing industry and the respondent was an employee of the said Company. On 02.02.1985 while the respondent was working in the Company, he met with an accident.

2.1 It is the case of the petitioner that the respondent approached the Government Labour Officer complaining that his services were terminated. The Assistant Commissioner of Labour by order dated 10.12.1985 made reference to the Labour Court, Ahmedabad u/s.10(1)(C) of the I.D. Act. The Labour Court vide award dated 18.12.1998 partially allowed the said reference by granting reinstatement along with 25 per cent back wages to the petitioner.

3. Mr.K M Patel learned advocate for the petitioner has contended that in the written statement filed before the Labour Court, the petitioner had specifically raised a contention that the Labour Court had no jurisdiction to entertain the Reference since it was made under the provisions of the B.I.R. Act and not under the I.D.Act. He has further contended that as per the Notification dated 07.07.1950, produced at page 41 of the petition, the petitioner Industry is governed under the provisions of the B.I.R. Act and not under the I.D. Act.

4. Though served none appears for the respondent. I have heard learned counsel for the petitioner and perused the documents placed on record. Having gone through the said Notification dated 07.07.1950, it is clearly established that the petitioner Industry shall be governed under the provisions of the B.I.R. Act and not under the provisions of the I.D. Act. Thus, the Labour Court has committed grave error in exercising jurisdiction under the I.D. Act. In that view of the matter, the impugned order of the Labour Court is

illegal and erroneous and deserves to be quashed and set aside.

5. For the foregoing reasons, this petition is allowed. The impugned order dated 18/12/1998 passed by the Labour Court, Ahmedabad in Reference (LCA) No.85 of 1986 is quashed and set aside. Rule is made absolute accordingly with no order as to costs.

(K. S. JHAVERI, J.)

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